

AMENDED IN ASSEMBLY JULY 2, 2003

AMENDED IN SENATE APRIL 7, 2003

**SENATE BILL**

**No. 679**

**Introduced by Senator Ortiz**

February 21, 2003

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An act to add Article 21 (commencing with Section 114500) to Chapter 4 of Part 7 of Division 104 of the Health and Safety Code, relating to restaurants.

LEGISLATIVE COUNSEL'S DIGEST

SB 679, as amended, Ortiz. ~~Restaurants~~ *Food establishments*: nutritional information.

~~Existing law, the~~

*The California Uniform Retail Food Facilities Law (CURFFL), provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Health Services. Under existing law, local health agencies are primarily responsible for enforcing CURFFL. A violation of any of these provisions is punishable as a misdemeanor.*

*This bill would require each ~~restaurant~~ food establishment, as defined, in this state that is part of a large ~~chain~~, chain, as defined, to ~~provide either post complete nutritional information on all standard menu items on a wall in a public area, and in a conspicuous manner; or by providing it to~~ customers with complete nutritional information, upon request, on all ~~food standard menu items sold at the restaurant.~~ ~~This bill would also require the restaurant food establishment, in which case the food establishment would be required to post a sign on the premises of the restaurant~~ that nutritional information concerning food*

items is available upon request. This bill would provide that any ~~restaurant that violates these provisions~~ *food establishment will be in violation of the bill only if, it either knowingly or negligently fails to comply with these requirements and is subject to a \$250 civil penalty guilty of an infraction, punishable by a fine of not less than \$25 or more than \$250, which may be assessed by an enforcement officer, except as specified, and that violation of the provisions of the bill is not a misdemeanor. This bill would provide that violations of its provisions shall not be enforced until January 1, 2005.*

~~By increasing the duties of local officials creating an infraction,~~ this bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Research continues to reveal the strong link between diet and health, and that diet-related diseases start early in life.

(b) Increased caloric intake is a key factor contributing to the alarming increase in obesity in the United States. According to the federal—~~Center~~ Centers for Disease Control and Prevention, two-thirds of American adults are overweight or obese, and the rates of obesity in children and teens have tripled since 1980. Obesity increases the risk of diabetes, heart disease, stroke, and other health problems. Each year obesity costs families, businesses, and governments \$117 billion.

(c) Excess saturated fat intake is a major risk factor for heart disease, which is the leading cause of death in the United States. While it is often thought to primarily affect men and older people, cardiovascular disease is the leading killer of women and kills 61,000 people between the ages of 45 and 64 years each year. Heart disease is also a leading cause of disability among working adults and its impact on the national economy is significant, estimated in 2001 to total \$298 billion in health care expenditures and lost productivity.

(d) Increased sodium intake is associated with increased risk of high blood pressure, or hypertension, a condition that can lead to cardiovascular disease, especially stroke. The proportion of Americans with high blood pressure is 45 percent at age 50 years, 60 percent at age 60 years, and over 70 percent at age 70 years.

~~(e) Over the past two decades, there has been a significant increase in the number of meals prepared and eaten outside the home, with an estimated one-third of calories and almost one-half (46 percent) of total food dollars being spent on food purchased from and eaten at restaurants and other food-service establishments.~~

~~(f)—~~

(e) While nutrition labeling is currently required on most packaged foods, this information is required only for restaurant foods for which nutrient content or health claims are made.

~~(g)—~~

(f) Three-quarters of American adults report using food labels on packaged foods, which are required by the federal Nutrition Labeling and Education Act of 1990. Using food labels is associated with eating more healthful diets, and approximately one-half (48 percent) of people report that the nutrition information on food labels has caused them to change their minds about buying a food product.

~~(h) It is difficult for consumers to limit their intake of calories at restaurants, given the limited availability of nutritional information, as well as the popular practice by many restaurants of providing foods in larger than standard servings and “super-sized” portions. Studies show that people eat greater quantities of food when they are served more.~~

(g) *Health experts generally agree that obesity prevention requires both maintaining a healthy diet and regular physical activity. Many children spend excessive amounts of time engaged in sedentary activities, maintain unhealthy diets, and, at the same time, lack sufficient amounts of regular physical activity, all of which has a negative impact on their health and weight.*

(h) *According to the Youth Risk Behavior Survey (YRBS), the majority of children of all ages in the United States do not get enough physical activity, and one-third of these children are considered physically inactive. The YRBS also found that only 52 percent of students in the United States were enrolled in a physical education class, and only 32 percent attended a physical education class daily. Research done by the California Center for Public Health Advocacy found that 39.6 percent of children in California are unfit.*

(i) *It is the intent of the Legislature, in enacting this act, that more food establishments shall provide nutritional information on their prepared food items so that customers can more fully understand the nutritional value of the foods that they consume. However, the Legislature does not intend, in adopting this act, that food establishments be held liable for lawsuits concerning obesity claims that are based on a failure to comply with this act.*

SEC. 2. Article 21 (commencing with Section 114500) is added to Chapter 4 of Part 7 of Division 104 of the Health and Safety Code, to read:

Article 21. ~~Restaurant~~ Food Establishment Nutrition

114500. (a) Each ~~restaurant~~ food establishment in this state that is part of a large chain shall ~~provide customers in this state with complete nutritional information, upon request, on all food items sold at the restaurant. The restaurant shall also post a sign on~~ make nutritional information available to customers on all standard menu items sold at the food establishment. The food establishment shall comply with this requirement by either posting the nutritional information on a wall in a public area and in a conspicuous manner or by providing the nutritional information, upon request by a customer, in printed form, such as a flyer or pamphlet, that the customer may keep. If the food establishment chooses to provide the information in printed form, the food establishment shall also post a sign on the premises stating that nutritional information concerning food items served at the ~~restaurant~~ food establishment is available upon request. The sign shall be conspicuous and visible at the counter area in restaurants where customers order food at a counter, or visible near the front entrance in ~~restaurants~~ food establishments where customers order from tables and not at a counter. The sign may be incorporated into other signs as long as the sign meets the requirements of this section.

~~(b) The information provided to the customer pursuant to this section shall be in printed form, such as a flyer or pamphlet, that the customer may keep.~~

~~(c)~~

(b) For the purposes of this section, nutritional information provided by a ~~restaurant~~ food establishment to a customer shall include, at a minimum, the same be similar to the information that is required by federal law to appear in nutrition labeling pursuant to subsection (q) of Section 343 of Title 21 of the United States Code.

~~(d)~~

(c) Subdivision (a) does not apply to items that are on the menu for less than six months.

~~(e)~~

(d) The nutritional information may include a disclaimer that acknowledges that there may be ~~minimal~~ variations in nutritional content across servings, based on ~~slight~~ variations in overall size and quantities of ingredients, and based on special ordering.

1 ~~(f) The restaurant shall obtain the nutritional analysis required~~  
2 ~~by this bill from an independent nutrition testing lab.~~

3 ~~(g)~~

4 (e) The duty of an enforcement officer to enforce this section  
5 ~~is shall be~~ limited to conducting an inspection in the course of  
6 regular health inspections of restaurants, and confirming the  
7 presence of the required sign, the availability of nutritional  
8 information for customers, and the completeness of that  
9 information.

10 (h) A restaurant that violates this section is subject to a civil  
11 penalty in the amount of two hundred fifty dollars (\$250) for each  
12 violation, which may be assessed by an enforcement officer.  
13 Notwithstanding Section 113935, a violation of this section is not  
14 a misdemeanor. inspections of food facilities, and verifying that  
15 the food establishment has made a good faith effort to comply with  
16 this article.

17 (f) A food establishment that violates this section is guilty of an  
18 infraction, punishable by a fine of not less than twenty-five dollars  
19 (\$25) or more than two hundred fifty dollars (\$250) for each  
20 violation, which may be assessed by an enforcement officer.  
21 Notwithstanding Section 113935, a violation of this section is not  
22 a misdemeanor.

23 (g) (1) A food establishment shall be in violation of this article  
24 only if it knowingly or negligently fails to comply with the  
25 requirements of this section.

26 (2) An individual franchisee is not in violation of this act if the  
27 franchisee's parent corporation has failed to provide the necessary  
28 materials required by this article.

29 (h) Violations of this article shall not be enforced until January  
30 1, 2005.

31 (i) For the purposes of this section, ~~large~~ the following  
32 definitions apply:

33 (1) "Food establishment" means any establishment used or  
34 operated for the purpose of preparing and serving food at the retail  
35 level, not including a mobile food facility, satellite food  
36 distribution facility, temporary food facility, open-air barbecue,  
37 certified farmers' market, stationary mobile food preparation unit,  
38 or mobile food preparation unit.

39 (2) "Large chain" means a chain of restaurants that includes 10  
40 or more franchises or restaurants in this state.

~~SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.~~

*SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

*However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.*